

REMARKS/ARGUMENTS

Claims 1, 19, 29-30 and 32 have been amended. Claims 2, and 24-28 have been cancelled. Accordingly, claims 1, 3-23, and 29-33 are currently pending.

Specifically, claims 1, 19 and 29-30 have been amended to include the recitation “wherein each cycle of therapy is separated by an interval of time wherein said human receives no bcl-2 antisense oligonucleotide, and wherein said interval of time comprises at least one day” to indicate that cycles of therapy are separated by an interval of time with no treatment. Support for this claim amendment can be found on page 24, line 12: “[a]n appropriate period of time for one cycle will be appreciated by the skilled artisan, as well as the total number of cycles, and the interval between cycles.” Further, on page 31, lines 4-14, a treatment regimen is described where the BCL-2 oligomer is given to a patient for a 14 day cycle of therapy. It is written that “[t]reatment cycles were repeated monthly,” clearly indicating that for at least 14 days (the remaining days of the month), no treatment of BCL-2 oligomer was given to the patient (monthly cycles are considered 28 days).

Claims 1, 19, and 29-30 have also been amended from 2 to 13 days to 3 to 9 days. Support for this claim amendment can be found on page 23 of the specification.

Claim 32 had been amended to correct a spelling error.

INTERVIEW SUMMARY

An interview was held on April 26, 2006. In attendance were Examiner Terra Gibbs and her supervisor, Sean McGarry and applicants' representatives Teresa Lavenue and Donna Fugit. All pending claims were discussed. The reference, Webb et al. was discussed. Specifically, the Examiner and Mr. McGarry argued that as the claims were written, Webb et al. anticipated the claims. It was agreed that the claims would be amended to indicate that cycles of therapy were separated by a period of time with no therapy.

Claim rejections under 35 U.S.C. §102(b) or §103

The Examiner has rejected claims 1-5 and 13-18 as being anticipated or obvious over Webb et al. (The Lancet, 1997 vol. 349:1137-1141). The Examiner points out that

Webb et al. "disclose a reduction of bcl-2 protein levels in the lymph nodes aspirates of patient 6 after a 7-day administration of a fully phosphorothioated bcl-2 antisense oligonucleotide." The Examiner takes the position that "at day 7, the cancer in patient 6 was inherently treated since the method disclosed by Webb et al. is fully embraced in the method as instantly claimed." The Examiner also argues that "Webb et al. teach administering to patient 6, a bcl-2 antisense for 7 days, which is less than 14 days."

Applicants respectfully submit that the Webb et al. reference does not anticipate or render obvious the presently amended claims. The presently amended claims require a cycle of therapy consisting of 3 to 9 days, wherein each cycle of therapy is separated by an interval of time wherein said human receives no bcl-2 antisense oligonucleotide, and wherein said interval of time comprises at least one day. So even if one were to read Webb's 14 day therapy cycle as two consecutive 7 day cycles (as the Examiner has done), under this reading, there is no teaching or suggestion of a cycle of therapy consisting of 3-9 days, wherein each cycle of therapy is separated by an interval of time wherein said human receives no bcl-2 antisense oligonucleotide, and wherein said interval of time comprises at least one day as required by the presently amended claims.

The Examiner has also rejected claims 1-13 as being unpatentable over Webb et al. in view of Bennet et al. As discussed above, Webb et al. does not teach or suggest the claimed treatment regimen as required by the presently amended claims. Bennet et al. also does not teach or suggest the claimed treatment regimen.

In light of the foregoing comments, Applicants respectfully request withdrawal of these grounds of rejections.

CONCLUSION

Applicants respectfully submit that, in view of the foregoing amendments and remarks, the present application is in condition for allowance. If the Examiner would like to discuss any remaining issues in this application, the Examiner is invited to contact the undersigned at the phone number provided below.

Appl. No: 09/709,170
Amendment dated June 6, 2006
Reply to office action of Jan. 25, 2006

Applicants authorize the Commissioner to charge the requisite fee for the request for continuation examination as well as any other fee due or credit any overpayment arising from this communication to Deposit Account No. 11-0600.

Respectfully submitted,


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Date: June 6, 2006

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